

PAUL J. FISHMAN
United States Attorney
MARIELENA PIRIZ
Assistant United States Attorney
970 Broad Street, Suite 700
Newark, NJ 07102
Tel. (973) 645-2813
Fax. (973) 297-2010
email: marielena.piriz@usdoj.gov

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

LEELYN M. ALEXANDER,

Plaintiff,

v.

METROPOLITAN FAMILY HEALTH
NETWORKS and JERSEY CITY MEDICAL
CENTER,

Defendants.

NOTICE OF REMOVAL

To: Clerk
Superior Court of New Jersey
Law Division, Hudson County
583 Newark Avenue
Jersey City, New Jersey 07306

Michelle M. Smith, Clerk
Superior Court of New Jersey
Hughes Justice Complex
P.O. Box 971
Trenton, New Jersey 08625

Leelyn M. Alexander
330 Washington Street, #188
Hoboken, New Jersey 07030
Plaintiff pro se

PLEASE TAKE NOTICE that this case, previously pending in the Superior Court of New Jersey, Law Division, Hudson County, Docket Number HUD-L-004387-15, is hereby removed to the United States District Court for the District of New Jersey, pursuant to 28 U.S.C.

§ 2679(b) and 42 U.S.C. § 233(c). The United States of America is hereby substituted for removing Defendant Metropolitan Family Health Networks, pursuant to 42 U.S.C. § 233(c) and (g). The United States of America, now substituted as a Defendant in this matter, through its attorney, Paul J. Fishman, United States Attorney for the District of New Jersey (Marielena Piriz, Assistant United States Attorney, appearing), states as follows upon information and belief:

1. Plaintiff Leelyn Alexander (“Plaintiff”) named Metropolitan Family Health Networks, as a defendant in the Complaint in the above-captioned action, which was filed in the Superior Court of New Jersey, Law Division, Hudson County, on October 27, 2015. Service of process has not been effected upon the United States in the manner specified in and required under Fed. R. Civ. P. 4(i). Copies of the Summons, the Complaint and all documents delivered therewith are attached as Exhibit A.

2. Plaintiff filed this civil action seeking damages for injuries she alleged sustained as the direct and proximate result of medical care she received at Metropolitan Family Health Networks, a federally qualified health center. See Exhibit A (Complaint).

3. At all times relevant to this Complaint, Metropolitan Family Health Networks was deemed eligible for coverage under the Federal Tort Claims Act by the U.S. Department of Health and Human Services (“HHS”) pursuant to the Federally Supported Health Centers Assistance Act (“FSHCAA”), 42 U.S.C. § 233(g)-(n). See Exhibit B (Declaration of Meredith Torres).

4. Pursuant to 42 U.S.C. § 233(g), this action is therefore deemed to be an action against the United States.

5. Sections 233(a) and (g) of Title 42 of the United States Code, as amended by the Federally Supported Health Centers Assistance Act of 1995, and Section 2679(b) of Title 28 of the United States Code, as amended by the Federal Employees Liability Reform and Tort Compensation Act of 1988, provide that the Federal Tort Claims Act (“FTCA”) is the exclusive remedy for tort claims against the United States.

6. The United States District Courts have exclusive jurisdiction over tort actions filed against the United States under the FTCA. 28 U.S.C. § 1346(b).

8. Accordingly, the United States District Court for the District of New Jersey has exclusive jurisdiction over this action under 28 U.S.C. § 1346(b), and this action is properly removed to this Court pursuant to 28 U.S.C. §§ 1442(a)(1) and 42 U.S.C. § 233(c) and (g).

9. No answer to the Complaint has been filed in the state court on behalf of Metropolitan Family Health Networks or the United States. Upon information and belief, a default was entered in the Superior Court against Metropolitan Family Health Networks on January 22, 2016. See Exhibit C (Entry of Default by Clerk of the Superior Court of New Jersey, dated Jan. 22, 2016.)

12. A copy of this Notice of Removal will be filed with the Clerk of the Superior Court of New Jersey, Law Division, Hudson County. Copies of the Notice of Removal will also be served on all parties that have appeared in the action in accordance with 28 U.S.C. § 1446(d).

THEREFORE, in accordance with 28 U.S.C. §§ 1442(a)(1) and 42 U.S.C. § 233(c) and (g), the above-captioned action brought in the Superior Court of New Jersey, Law Division, Passaic County, is hereby removed to the United States District Court for the District of New Jersey for further proceedings.

PAUL J. FISHMAN
United States Attorney

Dated: April 4, 2016
Newark, New Jersey

By: /s/ Marielena Piriz
MARIELENA PIRIZ
Assistant United States Attorney